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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/589,585	06/07/2000	Jennifer Pearson	003801.P025	8996

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Sheryl Sue Holloway  
Blakely Sokoloff Taylor & Zafman LLP  
7th Floor  
12400 Wilshire Boulevard  
Los Angeles, CA 90025

EXAMINER

NGUYEN, MAIKHANH

ART UNIT PAPER NUMBER

2176

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Applicati n N .</b>		<b>Applicant(s)</b>	
	09/589,585		PEARSON ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Maikhanh Nguyen		2176	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 19-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 19-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***DETAILED ACTION***

1. This action is responsive to communications: Amendment filed 07/19/2004 to the original application filed 06/07/2000.
2. Claims 1-15 and 19-24 are currently pending in this application. Claims 16-18 have been canceled. Claims 1 and 13 have been amended. Claims 1, 13, and 19 are independent claims.

***Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language; or " (Emphasis added.)

Claims 1-15 and 19-23 are rejected under 35 U.S.C. 102(e) as being anticipated **Helfman** (U.S. 6,119,135, filed 01/1997).

**As to independent claim 13:**

Helfman teaches a computer-readable medium having stored thereon executable instructions for causing a computer to perform utility program for dynamically selecting images for a markup language document (*Abstract*) comprising:

- (a) determining a number of images to display in the markup language document  
*(e.g., obtain images is to perform a search for web pages that meet certain predefined search criteria; col.3, lines 12-14);*
- (b) obtaining a set of random numbers corresponding to the number of images *(e.g., by using search criteria to retrieve images, a set of random numbers corresponding to the number images is obtained; col.3, lines 10-16);*
- (c) receiving images from a group of images using the set of random numbers *(e.g., displays the images on the display of client in a random pattern; col.3, lines 55-65); and*
- (d) placing the retrieved images in the document *(e.g., the images displayed on screen can be extracted from the web pages that match the search criteria; col.14-15).*

**As to dependent claim 14:**

Helfman teaches validating the retrieved images against validation criteria; and retrieving a replacement image from the group of images if a retrieved image fails the validation *(e.g., transmitting images from server to client and filter out undesired URLs; Fig.9, item 190).*

**As to dependent claim 15:**

Helfman teaches determining a location in the document for each of the retrieved images from an instruction embedded in the document *(e.g., run search engine to generate search results and filter; Fig.9, item 176).*

**As to independent claim 1:**

Art Unit: 2176

Helfman teaches a computerized method for dynamically selecting images for markup language document (see Fig.9) comprising:

- (a) encoding an instruction in the markup language document, the instruction identifying a utility program that dynamically selects an image for insertion into the document (*items 152, 172 and 174, Fig.9*);
- (b) preparing the markup language document for displayed (*items 176-192, Fig.9*);
- (c) evoking the utility program when the instruction is processed (*items 174-178, Fig.9*);
- (d) selecting, by the utility program, a pre-determined number of images from a group of images, the pre-determined number being specified in the instruction (*items 186-188, Fig.9*); and
- (e) placing, by the utility program, the pre-determined number of images in the markup document at locations defined in the instruction (*item 190, Fig.9*).

**As to dependent claim 2:**

Helfman teaches the group of images comprises a gallery containing images available for display (*item 192, Fig.9*).

**As to dependent claim 3:**

Helfman teaches choosing the images for the pool from a gallery containing images available for display using an administration tool (*e.g., retrieve web pages, construct mapping, and filter; Fig.9, item 186*).

**As to dependent claim 4:**

Art Unit: 2176

Helfman teaches obtaining filtering criteria (*e.g., filtering; Fig.9, item 186*); identifying an image from the gallery based on the filtering criteria (*e.g., mapping; Fig.9, item 186*); and adding the identified the identified image to the pool (*e.g., retrieve images; Fig.9, item 190*).

**As to dependent claim 5:**

Helfman teaches examining information associated with the image against a set of standards (*e.g., construct mapping; Fig.9, item 186*) and discarding the image if the information does not meet the standards (*e.g., filter out undesired URLs; Fig.9, item 190*).

**As to dependent claim 6:**

Helfman teaches deleting an image from the pool (*e.g., filter out undesired URLs; Fig.9, item 190*).

**As to dependent claim 7:**

Helfman teaches the markup language document is a web page (*e.g., web page; Fig.5, item 70*) and the instruction is a tag in a proprietary format (*e.g., image tag...image file...image map; Fig.5, item 68*).

**As to dependent claim 8:**

Helfman teaches the utility is invoked when the tag in the proprietary format is processed during a compile of the web page format (*e.g., start montage application; Fig.4, item 46*).

**As to dependent claim 9:**

Helfman teaches widget identifier, number of images, display parameters (*e.g., the group of web images that are displayed on clients 74 and 76 may be based on a search; col.9, lines 41-44*).

**As to dependent claim 10:**

Helfman teaches a size parameter and a location parameter (*e.g., images may be displayed...in random positions...arranged by size; col.2, lines 3-5 and col.3, lines 25-32*).

**As to dependent claim 11:**

Helfman teaches widget identifier, category identifier, number of images, display parameters (*e.g., the group of web images that are displayed on clients 74 and 76 may be based on a search; col.9, lines 41-44*).

**As to dependent claim 12:**

Helfman teaches validating the pre-determined number of images against validation criteria (*e.g., construct mapping; Fig.9, item 186*); and substituting a different image for an image that fails the validation (*e.g., filter out undesired URLs; Fig.9, item 190*).

**As to independent claim 19:**

- a. The rejection of independent claim 13 above is incorporated herein in full.  
Additionally, claim 19 further recite a processing unit; a memory, and a utility program.
- b. Helfman teaches a processing unit (*item 76, Fig. 6*); a memory (*item 86, Fig.6*), and a utility program (*item 88, Fig.6*).

**As to dependent claim 20:**

Helfman teaches the utility program causes the processing unit to place the selected images in a location defined in the instruction (*e.g., retrieve images...transmit images from server to client; Fig.9, items 188 and 190*).

**As to dependent claim 21:**

Helfman teaches the instruction specifies the number of images to display (*e.g., filter out undesired URLs; Fig.9, item 190*).

**As to dependent claim 22:**

Helfman teaches an administration program that causes the processing unit to create a group of images from which to select the number of images (*e.g., the group of web images that are displayed on clients 74 and 76 may be based on a search; col.9, lines 41-44*).

**As to dependent claim 23:**

Helfman teaches the computer system is a web server (*e.g., web servers 22 and 24; col.3, lines 35-36 and Fig.3*) and the markup language document is a web page (*e.g., web page; col.1, lines 42-63*).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.



Art Unit: 2176

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Helfman** in view of **Inoue et al.** (Pub. No.: US 2003/0208560, filed 03/2001, foreign priority filed 03/2000).

**As to dependent claim 24:**

- a. Helfman does not teach “the web page contains images of items being auctioned on a web site hosted by the web server.”
- b. Inoue teaches the web page contains images of items being auctioned on a web site hosted by the web server (*Fig.2*).
- c. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to include the feature from Inoue in the system of Helfman because it would have provided the capability for passively browsing the Internet or an intranet by displaying images from web pages on a user’s display screen.

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***Response to Arguments***

5. Applicant’s arguments filed 08/28/2003 have been fully considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Art Unit: 2176

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Sparks et al.                      U.S Patent No. 6,167,382                      issued: Dec. 26, 2000

Jacobi et al.                      U.S Patent No. 6,317,722                      issued: Nov. 13, 2001

Guedalia                      U.S Patent No. 6,356,283                      issued: Mar. 12, 2002


Langheinrich et al.                      U.S Patent No. 6,654,725                      issued: Nov. 25, 2003

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maikhanh Nguyen whose telephone number is (571) 272-4093. The examiner can normally be reached on Monday - Friday from 9:00am – 5:30 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph H Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status

information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Maikhanh Nguyen  
January 10, 2005

  
JOSEPH FEILD  
SUPERVISORY PATENT EXAMINER